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SEPTEMBER 21, 2022 BY RONNIE

Challenge To University Of Lethbridge Vaccine Policy Tossed For “Mootness”

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An Alberta Judge has dismissed an Application on the grounds that the issue is “moot”, and there’s no relief that can be realistically granted.

The hearing itself took place on May 5th and 6th, with the ruling just coming out. Of course, these mandates were still in place when the Application itself was originally filed.

The case involves a challenge to the “vaccine passport” system that had been in place, and the denial of a religious exemption. The school argued that since the policy has been

rescinded, there's no issue left to be decided.

> Is The Application Moot?
> [7] ***The Respondent argues that there is no longer a tangible or concrete dispute between the parties. The vaccination program which is the subject matter of this application was repealed after being in place approximately four months***. Therefore, it is the Respondent's position that any decision made by this Court as to the impact of the program on the Applicant's Charter or other rights will have no practical effect on her ability to attend the University.

> [8] The leading case regarding the principles of mootness remains Borowski v Canada (Attorney General), 1989 CanLII 123 (SCC), [1989] 1 SCR 342 [Borowski]. ***The doctrine of mootness is an aspect of the general policy or practice that a court may decline to decide a case which raises merely a hypothetical or abstract question. If, subsequent to the initiation of the action or proceeding, events occur which affect the relationship of the parties so that no present live controversy exists which affects the rights of the parties***, the case is said to be moot. The matter will therefore not be heard unless the court exercises its discretion to depart from that general policy: Borowski, at para 15.

> [9] ***To determine whether an application is moot, a two-step analysis must be undertaken***: first, to determine whether the required tangible and concrete dispute has disappeared and the issues have become academic; and second, if the answer to the first question is yes, to determine whether the court should exercise its discretion to hear the case: Borowski, at para 16.

> [10] With respect to the first stage of the analysis, there must be a consideration of whether there remains a live controversy between the parties. A live controversy, in this context, involves whether there exists, on an objective assessment, a dispute between the parties the resolution of which will actually affect the parties' rights or interests: The Alberta Teachers' Association v Buffalo Trail Public Schools Regional Division No 28, 2022 ABCA 13, at para 34.

> [11] It may well be, from a practical perspective, that there is no remedy that can be granted by the Court to rectify or ameliorate the impact of the alleged breaches of the Applicant's

> rights. ***The Applicant is not seeking damages or other compensatory relief. Nor can the court provide any relief from future potential harm the vaccination policy may cause Ms. Nassichuk-Dean, as that policy is no longer in place and hasn't been since March***. Again, Ms. Nassichuk-Dean is not seeking injunctive or other relief for any anticipated rights breaches against her.

> [12] Rather, ***the Applicant is seeking declarations that the application of the University's COVID-19 policy violated her s. 7 Charter rights, and that the rejection of her application for a religious exemption*** from the policy breached her rights under the Alberta Human Rights Act.

Had the Applicant been asking for money, or some additional form of relief, it's entirely possible the case would have kept going. But since the only issue was challenging the policy itself, it was determined that there's no longer any issue to be heard.

Of course, what's to stop the University of Lethbridge (or any school) from re-implementing such mandates in the future? There's no assurance they won't at some point.

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Resources
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THE UNIVERSITY OF LETHBRIDGE –
Charity's detail page
Registration no.: 119279248 RR 0001
Charity status: Registered
Effective date of status: 1967-01-01
Designation: Charitable organization
Website: WWW.ULETH.CA

Government funding

End date of the last completed financial year: 2020-03-31

List of Government Funding

Government Institution	Funding Received in Last Financial Year	Funding Expected in Current Financial Year
Canada Foundation for Innovation	$611,000.00	Yes
Canada Research Chairs	$1,645,000.00	Yes
Canadian Institutes of Health Research (CIHR)	$923,000.00	Yes
Health Canada (HC)	$42,974.00	Yes
Municipal	$166,000.00	Yes
Natural Sciences and Engineering Research Council (NSERC)	$3,565,000.00	Yes
Other Federal	$4,577,000.00	Yes
Other Provinces	$88,000.00	Yes
Provincial	$119,150,000.00	Yes
Social Sciences and Humanities Research Council (SSHRC)	$1,156,000.00	Yes

On a side note: the University of Lethbridge, like other Canadian schools, is a registered charity. This means that it receives the benefits of many tax breaks ordinary citizens cannot get.

The school receives handouts from all levels of Government, so it's unlikely that it will do anything to rock the boat. No college or university in Canada did anything to challenge or push back on vaccine or mask mandates. As with everything, follow the money.

(1) https://www.canlii.org/en/ab/abkb/doc/2022/2022abkb629/2022abkb629.html
(2) https://www.canlii.org/en/ab/abkb/doc/2022/2022abkb629/2022abkb629.pdf
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SEPTEMBER 22, 2022 AT 5:44 AM

Just like the 4 court cases in BC recently…..tossed out……